

**SHIRE OF NORTHAMPTON**  
**TOWN PLANNING SCHEME No 9**  
**KALBARRI TOWNSITE**



**SCHEME TEXT**

**DISCLAIMER**

*This is a copy of the Town Planning Scheme and whilst all care has been taken to accurately portray the current Scheme provisions, no responsibility shall be taken for any omissions or errors in this document.*

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## Table of Contents

### Part 1 PRELIMINARY

- 1.1 CITATION
- 1.2 RESPONSIBLE AUTHORITY
- 1.3 SCHEME AREA
- 1.4 CONTENTS OF THE SCHEME
- 1.5 ARRANGEMENT OF THE SCHEME TEXT
- 1.6 SCHEME OBJECTIVES
- 1.7 REVOCATION OF EXISTING SCHEME
- 1.8 INTERPRETATION

### Part 2 RESERVES

- 2.1 RESERVED LAND
- 2.2 USE AND DEVELOPMENT OF RESERVED LAND
- 2.3 COMPENSATION

### Part 3 ZONES

- 3.1 ZONES
  - 3.1.1 Creation of Zones
  - 3.1.2 Purpose and Intent of the Zones
    - 3.1.2.1 Residential zone
    - 3.1.2.2 Commercial zone
    - 3.1.2.3 Industrial zones
    - 3.1.2.4 Tourist Accommodation zone
    - 3.1.2.5 Special Rural zone
    - 3.1.2.6 Rural zone
    - 3.1.2.7 Special Use zone
    - 3.1.2.8 Tourist Development zone
- 3.2 ZONING TABLE
- 3.3 SPECIAL USE ZONES

### Part 4 NON-CONFORMING USES

- 4.1 NON-CONFORMING USE RIGHTS
- 4.2 EXTENSION OF NON-CONFORMING USE
- 4.3 CHANGE OF NON-CONFORMING USE
- 4.4 DISCONTINUANCE OF NON-CONFORMING USE
- 4.5 DESTRUCTION OF BUILDINGS
- 4.6 RECORDING NON-CONFORMING USES

### Part 5 GENERAL PROVISIONS

- 5.1 DEVELOPMENT STANDARDS
- 5.2 TWO STOREY BUILDING HEIGHT LIMIT
  - 5.2.2 Variation to Height Limit
- 5.3 DEVELOPMENT OF LAND SUBJECT TO DAMPNESS OR FLOODING
- 5.4 SETBACKS FROM WATERCOURSES

- 5.5 RESIDENTIAL DEVELOPMENT: RESIDENTIAL DESIGN CODES
  - 5.5.5 Variation to Residential Design Codes: Multiple Dwellings
  - 5.5.6 Variation to Residential Design Codes: Car Parking
  - 5.5.7 Variation to Residential Design Codes: Design Guidelines
- 5.6 COMMERCIAL/RESIDENTIAL MIXED DEVELOPMENTS
- 5.7 CAR PARKING
- 5.8 SHARED OR COMBINED CAR PARKING
- 5.9 CAR PARKING FUND
- 5.10 USE OF SETBACKS
- 5.11 REFUSE STORAGE AREAS
- 5.12 LANDSCAPING
- 5.13 DEVELOPMENT ON LAND ABUTTING A RESIDENTIAL ZONE
- 5.14 FACTORY UNIT BUILDINGS
- 5.15 OUTDOOR STORAGE OF MATERIALS
- 5.16 VEHICLE ACCESS/EGRESS POINTS
- 5.17 LOADING AND UNLOADING OF VEHICLES
- 5.18 BUS AND COACH PARKING
- 5.19 VEHICLES, CARAVANS, TRAILERS AND BOATS IN RESIDENTIAL AREAS
- 5.20 TEMPORARY ACCOMMODATION
- 5.21 RELOCATED BUILDINGS
- 5.22 HOME OCCUPATIONS
  - 5.22.1 Application for Home Occupations
- 5.23 COTTAGE INDUSTRIES
  - 5.23.1 Application for Cottage Industry
- 5.24 KALBARRI WASTEWATER TREATMENT PLANT BUFFER
- 5.25 DOMESTIC WATER SUPPLIES
- 5.26 POWER TO CONTROL ADVERTISEMENTS
  - 5.26.4 Existing Advertisements
  - 5.26.5 Consideration of Applications
  - 5.26.6 Exemptions from the Requirement to Obtain Planning Consent
  - 5.26.7 Discontinuance
  - 5.26.8 Derelict or Poorly Maintained Signs
  - 5.26.9 Notices
  - 5.26.10 Scheme to Prevail
  - 5.26.11 Enforcement and Penalties
- 5.27 OPERATION OF SPECIAL CONTROL AREAS
- 5.28 DEVELOPMENT AREAS
  - 5.28.1 Interpretation
  - 5.28.2 Purpose of Development Areas
  - 5.28.3 Subdivision and Development in Development Areas
  - 5.28.4 Structure Plan Required
  - 5.28.5 Preparation of Proposed Structure Plans
  - 5.28.6 Details of Proposed Structure Plan
  - 5.28.7 Submission to the Council and Commission
  - 5.28.8 Advertising of Structure Plan
  - 5.28.9 Adoption of Proposed Structure Plan
  - 5.28.10 Endorsement by Commission
  - 5.28.11 Notification of Structure Plan
  - 5.28.12 Operation of Structure Plan
  - 5.28.13 Inspection of Structure Plan

- 5.28.14 Variation to Structure Plan
- 5.28.15 Detailed Area Plan
- 5.28.16 Appeal
- 5.29 COASTAL AND RIVER FORESHORE PLANNING AREA
- 5.30 DEVELOPMENT IN SPECIAL RURAL ZONES
- 5.31 PROVISIONS FOR SPECIFIC TOURIST ACCOMMODATION ZONES
- 5.32 WATER SENSITIVE URBAN DESIGN
- 5.33 DESIGN GUIDELINES

## **Part 6 PLANNING CONSENT**

- 6.1 PLANNING CONSENT
- 6.2 DISCRETION TO MODIFY DEVELOPMENT STANDARDS
- 6.3 APPLICATION FOR PLANNING CONSENT
- 6.4 PUBLIC NOTICE
- 6.5 DETERMINATION OF APPLICATIONS
- 6.6 TERM OF PLANNING CONSENT
- 6.7 TEMPORARY PLANNING CONSENT
- 6.8 DEEMED REFUSAL
- 6.9 AMENDING OR REVOKING A PLANNING CONSENT

## **Part 7 PLACES OF HERITAGE VALUE**

- 7.1 PURPOSE AND INTENT
- 7.2 HERITAGE LIST
- 7.3 APPLICATIONS FOR PLANNING CONSENT
- 7.4 FORMALITIES OF APPLICATION
- 7.5 DESIGNATION OF HERITAGE PRECINCTS
- 7.6 VARIATIONS TO SCHEME PROVISIONS

## **Part 8 ADMINISTRATION**

- 8.1 POWERS OF THE SCHEME
- 8.2 OFFENCES
- 8.3 NOTICES
- 8.4 COMPENSATION
- 8.5 APPEALS
- 8.6 ENFORCEMENT
- 8.7 DELEGATION
- 8.8 AMENDMENTS TO THE SCHEME
- 8.9 POWER TO MAKE PLANNING POLICIES
  - 8.9.2 Procedure of Policy Making
  - 8.9.3 Policy Amendment
  - 8.9.4 The Scheme shall Prevail
  - 8.9.5 Policy Statements shall be Consistent with the Scheme

**APPENDICES**

Appendix 1	INTERPRETATIONS
Appendix 2	APPLICATION FOR PLANNING CONSENT
Appendix 3	APPLICATION FOR HOME OCCUPATION/COTTAGE INDUSTRY
Appendix 4	NOTICE OF DEVELOPMENT PROPOSAL
Appendix 5	NOTICE OF APPROVAL/REFUSAL OF PLANNING CONSENT
Appendix 6	CONTROL OF ADVERTISEMENTS (Additional Information Sheet)
Appendix 7	SPECIAL USE ZONES
Appendix 8	SPECIAL RURAL ZONES (Provisions Relating to Specified Areas)
Appendix 9	CAR PARKING AREA DESIGN
Appendix 10	EXEMPTED ADVERTISEMENTS PURSUANT TO CLAUSE 5.26.6
Appendix 11	DEVELOPMENT AREAS

**TABLES**

Table 1	ZONING TABLE
Table 2	DEVELOPMENT STANDARDS
Table 3	CAR PARKING STANDARDS

*The Northampton Shire Council, under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act, 1928 (as amended), hereby makes the following Town Planning Scheme for the purposes laid down in the Act.*

## **Part 1 PRELIMINARY**

### **1.1 CITATION**

This Town Planning Scheme may be cited as the Shire of Northampton Town Planning Scheme No 9 – Kalbarri Townsite hereinafter called the ‘Scheme’ and shall come into operation on the publication of the Scheme in the Government Gazette.

### **1.2 RESPONSIBLE AUTHORITY**

The Authority responsible for implementing the Scheme is the Council of the Shire of Northampton hereinafter called the ‘Council’.

### **1.3 SCHEME AREA**

The Scheme shall apply to the whole of the area within the inner edge of the broken black border on the Scheme Map, which area is hereinafter called the ‘Scheme Area’.

### **1.4 CONTENTS OF THE SCHEME**

The Scheme comprises this Scheme Text and the Scheme Map (Maps 1-5).

### **1.5 ARRANGEMENT OF THE SCHEME TEXT**

The Scheme Text is divided into the following parts:

Part I	Preliminary
Part II	Reserves
Part III	Zones
Part IV	Non-Conforming Uses
Part V	General Provisions
Part VI	Planning Consent
Part VII	Places of Heritage Value
Part VIII	Administration

### **1.6 SCHEME OBJECTIVES**

The Scheme Objectives are as follows:

- (a) to reserve land required for public or community purposes;
- (b) to protect the alignment of proposed roads and road widening from inappropriate developments;

- (c) to zone land within the Scheme Area for the various purposes in order to promote orderly and proper development within the Kalbarri area;
- (d) to provide for the protection of the natural environment and landscape from inappropriate uses;
- (e) to recognise and protect buildings and places of importance to the historic, townscape and cultural heritage of the Kalbarri area;
- (f) to provide for such development as is required to accommodate the lifestyles appropriate to the area;
- (g) to outline objectives and a development strategy for the Scheme Area;
- (h) to expand upon existing tourist accommodation and to improve their amenities in accordance with demand;
- (i) to respect demands for higher density living in accordance with changing demographics and provide a broad mix of housing types;
- (j) to set aside as reserves for public use land required for active and passive recreational purposes;
- (k) to establish a balanced hierarchy of retail, commercial and community facilities in accordance with the needs of Kalbarri residents and visitors to the area.

## **1.7 REVOCATION OF EXISTING SCHEME**

The Shire of Northampton Town Planning Scheme No 4 as amended, which came into operation by publication in the Government Gazette on the 17<sup>th</sup> of January 1986, is hereby revoked.

## **1.8 INTERPRETATION**

- 1.8.1** Except as provided in Clause 1.8.2 or 1.8.3 the words and expressions of the Scheme shall have their normal and common meaning.
- 1.8.2** Words and expressions used in the Scheme shall have the respective meanings given to them in Appendix 1 or elsewhere in the Scheme and the Residential Design Codes.
- 1.8.3** Where a word or term is defined in the Residential Design Codes then notwithstanding anything else in the Scheme that word or term when used in respect of residential development has the meaning given to it in the Residential Design Codes.

## **Part 2 RESERVES**

### **2.1 RESERVED LAND**

The Scheme hereby creates the following reserves:

National Parks and Conservation;  
Parks and Recreation;  
Major Road;  
Public Purposes (as marked);  
Civic and Cultural (as marked);  
Waterway.

The land shown as reserves on the Scheme Map, are lands reserved under the Scheme for the purposes shown on the Scheme Map.

### **2.2 USE AND DEVELOPMENT OF RESERVED LAND**

**2.2.1** A person shall not use or commence or carry out development on reserved land without first having obtained the planning approval of Council under Part VI of the Scheme, and in determining an application for planning approval Council shall have regard to:

- (a) the matters set out in Clause 6.5; and
- (b) the ultimate purpose intended for the reserved land,

and Council shall, in the case of land reserved for the purposes of a public authority, confer with that authority before giving its approval.

**2.2.2** Any applicant intending to undertake development or scheme amendment on land adjacent to National Parks and Conservation Reserve shall be required to consult with the appropriate vesting agency prior to approvals being granted in order to ensure that adjacent land uses do not have detrimental impacts on conservation values of the National Parks and Conservation Reserve.

### **2.3 COMPENSATION**

**2.3.1** Where Council refuses Planning Consent for the development of reserved land on the grounds that the land is reserved for local authority purposes or for other purposes shown on the Scheme Map, or grants consent subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose, the owner of the land may seek compensation from Council.

**2.3.2** Claims for such compensation shall be lodged at the office of Council not later than 6 months after the date of the decision of Council refusing Planning Consent or granting it subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a



public purpose.

- 2.3.3** In lieu of paying compensation Council may purchase the land affected by such decision of Council at a price representing the unaffected value of the land at the time of refusal of Planning Consent or of the granting of consent subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose.

## **Part 3 ZONES**

### **3.1 ZONES**

#### **3.1.1 Creation of Zones**

The various Zones created in the Scheme Area are set out hereunder:

Residential Zone;  
Commercial Zone;  
General Industry Zone;  
Light Industry Zone;  
Tourist Accommodation Zone;  
Special Rural Zone;  
Rural Zone;  
Special Use Zone;  
Tourist Development Zone.

These Zones are delineated and depicted on the Scheme Map according to the legend thereon.

#### **3.1.2 Purpose and Intent of the Zones**

The primary purposes and intent of the various Zones is to allocate land to achieve the following objectives:

##### **3.1.2.1 Residential zone**

- (a) to ensure that land uses are compatible and complementary to the residential purpose of the Zone;
- (b) provide a mix of housing types to cater for the range of demands created by a diverse population, which chooses to live and visit the town;
- (c) promote and safeguard health, safety, convenience, the general welfare and the amenities of residential areas and their inhabitants;
- (d) ensure that other uses and activities compatible with the predominant use are allowed for;
- (e) promote "modified grid" subdivision patterns for new development as a means of improving legibility in preference to the widespread use of culs-de-sac;
- (f) promote the use of water sensitive urban design; and
- (g) promote the orientation of dwellings and lots to encourage energy efficiency.

**3.1.2.2** Commercial zone

- (a) expand, enhance, and promote the existing main commercial areas;
- (b) to ensure that commercial developments are designed to encourage pedestrian and disabled access;
- (c) to ensure adequate on-site car parking is provided;
- (d) encourage the removal of inappropriate land uses to more desirable locations within the Scheme area; and
- (e) to prevent unsuitable and inappropriate developments (such as light industrial uses) from occurring.

**3.1.2.3** Industrial zones

- (a) encourage industrial activity within Kalbarri to the Industrial area;
- (b) provide clean, efficient and pleasant industrial facilities;
- (c) provide safe movement of vehicular and pedestrian traffic;
- (d) provide adequate room for expansion without detrimental effects on adjoining land uses;
- (e) encourage relocation of existing industries from residential and commercial zoned land;
- (f) land within the General Industry Zone shall comply with the following additional objectives:
  - (i) to provide for manufacturing, storage, servicing and associated industrial activities;
  - (ii) to provide land for allied activities such as fuel depots, vehicle wrecking and repairs, bulk good sales, warehouses etc; and
  - (iii) to prevent any further development of Caretaker's Dwellings within the Zone;
- (g) land within the Light Industry Zone shall comply with the following additional objectives:
  - (i) to provide for limited retailing, wholesaling, trade centres and allied services and other commercial activities that due to their nature and/or size are not appropriate, or cannot be accommodated, in the Commercial Zone; and
  - (ii) to prevent any further development of Caretaker's Dwellings within the Zone.

**3.1.2.4** Tourist Accommodation zone

- (a) encourage the diversification of tourist accommodation to meet the requirements of the tourist population;
- (b) ensure that development proposals provide for on-site recreation, management and service areas and facilities to accommodate boat/trailer parking, in addition to the provision of walkways to allow separation of pedestrians and traffic;
- (c) provide for bus or coach parking associated with the development; and
- (d) require a high standard of building design and landscaping which complements the natural setting of the town generally and the particular site.

**3.1.2.5** Special Rural zone

- (a) provide land close to the existing urban centre for such uses as hobby farms, nurseries, cottage industries, the keeping of horses, stables or residential retreats; and
- (b) make provision for the retention and enhancement of the rural landscape consistent with the existing land uses and the amenity of the adjoining properties.

**3.1.2.6** Rural zone

- (a) for land north of the Murchison River, to provide for retention and enhancement of the rural landscape in a manner consistent with sound land use management principles; and
- (b) for land south of the Murchison River, to maintain the rural character and to prevent the use of the land for any use which may adversely affect potential future expansion of the urban area.

**3.1.2.7** Special Use zone

- (a) to encourage development of a high environmental standard appropriate to the use of the land within the Zone;
- (b) to protect the amenity of the adjoining properties;
- (c) to set aside and protect developments and land of heritage and landscape value.

**3.1.2.8** Tourist Development zone

- (a) provide for the development of all forms of tourist related activities in specified areas where advantages by means of location and accessibility

may promote this type of development;

- (b) encourage a high standard of development in terms of design and amenity commensurate with the image of Kalbarri as a growing resort and holiday destination.

## **3.2 ZONING TABLE**

**3.2.1** The Zoning Table (Table 1) indicates, subject to the provisions of the Scheme, the various uses permitted in the Scheme Area in the various Zones. These uses are determined by cross reference between the list of Use Classes on the left side and the list of Zones at the top of the Zoning Table.

**3.2.2** The symbols used in the cross reference in the Zoning Table have the following meanings:

- "P" means that the use is permitted provided it complies with the relevant standards and requirements laid down in the Scheme;
- "IP" means that the use is not permitted unless Council considers such use is incidental to the predominant use of the land and/or buildings;
- "AA" means that the use is not permitted unless Council has granted Planning Consent;
- "SA" means that the use is not permitted unless Council has granted Planning Consent after giving notice in accordance with Clause 6.4.

**3.2.3** Where no symbol appears in the cross reference of a use class against a Zone in the Zoning Table a use of that class is not permitted in that Zone.

**3.2.4** Where in the Zoning Table a particular use is mentioned it is deemed to be excluded from any other use class which by its more general terms might otherwise include such particular use.

**3.2.5** If the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category Council may;

- (a) determine that the use is consistent with the objectives and purpose of the particular Zone and is therefore permitted; or
- (b) determine that the use may be consistent with the objectives and purpose of the particular Zone and thereafter follow the advertising procedures of Clause 6.4 in considering an Application for Planning Consent; or
- (c) determine that the use is not consistent with the objectives and purpose of the particular Zone and is therefore not permitted.

**Table 1 – ZONING TABLE**

<b>ZONES</b>	<b>RESIDENTIAL</b>	<b>COMMERCIAL</b>	<b>GENERAL INDUSTRY</b>	<b>LIGHT INDUSTRY</b>	<b>TOURIST ACCOMMODATION</b>	<b>SPECIAL RURAL</b>	<b>RURAL</b>	<b>TOURIST DEVELOPMENT</b>	<b>SPECIAL USE</b>
	<b>LAND USE CLASS</b>								
Abattoir							SA		#
Aged or Dependent Persons' Dwelling	AA								#
Amenity Building		IP	IP	IP	IP			IP	#
Amusement Parlour		AA		SA					#
Aquaculture			SA	SA		SA	AA	SA	#
Art Gallery		AA				SA		AA	#
Bed and Breakfast	AA				AA	AA	AA		#
Betting Agency		AA							#
Builder's Storage Yard			AA	AA					#
Camping Area					AA				#
Caravan Park					AA				#
Caretaker's Dwelling		AA			IP			IP	#
Car Park	AA	P	IP	IP	IP			IP	#
Cattery			AA	AA			AA		#
Chalet Park					AA				#
Child Care Premises	SA								#
Cinema/Theatre		AA			AA			AA	#
Civic Building	SA	AA							#
Club Premises		SA							#
Community Services Depot		AA	P	P		AA	AA		#
Consulting Rooms	SA	AA							#
Convenience Store		P			SA				#
Drive-In Theatre				SA				AA	#
Dry Cleaning Premises		AA	P	AA					#
Educational Establishment	SA					SA	SA	SA	#
Equestrian Centre						SA	P	AA	#
Factory Unit Building			AA	P					#
Fast Food Outlet		AA							#
Fish Shop		P	SA	P					#
Fuel Depot			P	AA					#
Funeral Parlour		AA							#
Garden Centre		P	AA	P					#
Grouped Dwelling	AA								#
Health Centre		AA							#

ZONES	RESIDENTIAL	COMMERCIAL	GENERAL INDUSTRY	LIGHT INDUSTRY	TOURIST ACCOMMODATION	SPECIAL RURAL	RURAL	TOURIST DEVELOPMENT	SPECIAL USE
	LAND USE CLASS								
Health Studio		AA		SA	AA			AA	#
Hire Service		AA	P	P					#
Holiday Accommodation	SA	AA			P				#
Home Occupation	AA	AA				AA	AA	AA	#
Hotel		SA			SA				#
Industry – Cottage	AA	AA	AA	P	AA	AA	AA	AA	#
Industry – Extractive			P				SA		#
Industry – General			P						#
Industry – Hazardous			SA						#
Industry – Light			AA	P					#
Industry – Rural			P	P			AA		#
Industry – Service		AA	AA	P					#
Kennels			AA	AA			AA		#
Kindergarten	SA	AA							#
Kiosk					IP				#
Laundromat		P		P	AA				#
Limited Rural Use						P	P		#
Liquor Store		SA							#
Lunch Bar		P		AA					#
Marine Collectors Yard			P	P					#
Marine Filling Station			P	P					#
Market		AA		AA			SA	AA	#
Medical Centre		SA							#
Milk Depot			AA	P					#
Motel		SA			SA				#
Motor Vehicle & Marine Sales		AA	AA	P					#
Motor Vehicle Hire		AA	P	P	IP				#
Motor Vehicle Repairs			P	P					#
Motor Vehicle Wash		AA	P	P					#
Motor Vehicle Wrecking			P	P					#
Multiple Dwelling	AA								#
Museum		P						AA	#
Night Club		SA						SA	#
Nursing Home	SA								#
Office		P	IP	IP	IP			IP	#
Park Home Park					SA				#
Petrol Filling Station		AA	SA	P					#
Piggery									#

ZONES	RESIDENTIAL	COMMERCIAL	GENERAL INDUSTRY	LIGHT INDUSTRY	TOURIST ACCOMMODATION	SPECIAL RURAL	RURAL	TOURIST DEVELOPMENT	SPECIAL USE
	LAND USE CLASS								
Plant Nursery		P	AA	P		AA	AA		#
Poultry Farming									#
Private Recreation		AA					SA	AA	#
Produce Store		AA	SA	AA					#
Public Amusement		AA	SA					AA	#
Public Utility	P	P	P	P	P	P	P	P	#
Public Worship	SA	SA							#
Radio & TV Installation			P	P					#
Reception Centre		SA			SA			SA	#
Residential Building	SA	SA							#
Resort Development					AA				#
Restaurant		P			AA			AA	#
Rural Pursuit						AA	P		#
Salvage Yard			P	P					#
Service Station		AA	P	AA					#
Shop		P	IP	IP	IP			SA	#
Showroom		P	AA	P				SA	#
Single House	P				AA	P	P		#
Stable						SA	P	SA	#
Tavern		SA			SA				#
Temporary Accommodation	AA				AA	AA	AA	AA	#
Trade Display		AA	AA	AA					#
Transport Depot			P	AA					#
Veterinary Consulting Rooms		AA		AA		AA	AA		#
Veterinary Hospital				SA		SA	AA		#
Warehouse		AA	AA	P					#
Wayside Stall						AA	AA		#
Zoological Gardens						SA	SA	AA	#

# Refer to Clause 3.3

**3.2.6** Notwithstanding anything contained within the Zoning Table, with respect to the Special Rural Zone, limitations to permitted uses apply in some areas, and are set out in Appendix 8.

**3.2.7** Notwithstanding anything contained within the Zoning Table, with respect to the Tourist Accommodation Zone, limitations to permitted uses apply in some areas, and are set out in Clause 5.31.



**3.2.8** Notwithstanding anything contained within the Zoning Table, limitations on the development of Multiple Dwellings within the Residential Zone are set out in Clause 5.5.5.

**3.3 SPECIAL USE ZONES**

Notwithstanding anything contained within the Zoning Table the land specified in Appendix 7 may subject to compliance with any condition specified in the Appendix with respect to the land, be used only for the purposes set against the land in that Appendix.

## **Part 4 NON-CONFORMING USES**

### **4.1 NON-CONFORMING USE RIGHTS**

Except as otherwise provided in this Part, no provision of the Scheme shall prevent:

- (a) the continued use of any land or building for the purpose for which it was being lawfully used at the time of coming into force of the Scheme; or
- (b) the carrying out of any development thereon for which, immediately prior to that time, a permit or permits, lawfully required to authorise the development to be carried out, were duly obtained and are current.

### **4.2 EXTENSION OF NON-CONFORMING USE**

A person shall not alter or extend a non-conforming use or erect, alter or extend a building used in conjunction with a non-conforming use without first having applied for and obtained the Planning Consent of Council under the Scheme and unless in conformity with any other provisions and requirements contained in the Scheme.

### **4.3 CHANGE OF NON-CONFORMING USE**

Notwithstanding anything contained in the Zoning Table Council may grant its Planning Consent to the change of use of any land from a non-conforming use to another use if the proposed use is, in the opinion of Council, less detrimental to the amenity of the locality than the non-conforming use and is, in the opinion of Council, closer to the intended uses of the Zone or Reserve.

### **4.4 DISCONTINUANCE OF NON-CONFORMING USE**

**4.4.1** When a non-conforming use of any land or buildings has been discontinued for a period of 6 months or more, such land or building shall not thereafter be used otherwise than in conformity with the provisions of the Scheme.

**4.4.2** Council may effect the discontinuance of a non-conforming use by the purchase of the affected property, or by the payment of compensation to the owner or occupier or to both the owner and the occupier of that property, and may enter into an agreement with the owner for that purpose.

### **4.5 DESTRUCTION OF BUILDINGS**

If any building is, at the gazettal date, being used for a non-conforming use, and is subsequently destroyed or damaged to an extent of 75 percent or more of its value, the land on which the building is built shall not thereafter be used otherwise than in conformity with the Scheme, and the buildings shall not be repaired or rebuilt, altered or added to for the purpose of being used for a non-conforming use or in a manner or position not permitted by the Scheme,

except with the approval of Council.

#### **4.6 RECORDING NON-CONFORMING USES**

**4.6.1** A land owner who requests Council to record the existence of a non-conforming use shall submit to Council in writing full details of the nature, location, extent of the non-conforming use and approvals so granted.

**4.6.2** Where Council is satisfied that a non-conforming use exists, it is to record, in a register of non-conforming uses, details of each non-conforming use.

## Part 5 GENERAL PROVISIONS

### 5.1 DEVELOPMENT STANDARDS

Subject to the provisions of the Scheme the standards for development in the various Zones, except for development provided for in the Residential Design Codes, are set out below in Table 2 – Development Standards.

**Table 2 – DEVELOPMENT STANDARDS**

ZONE	MINIMUM SETBACK			MAXIMUM SITE COVERAGE (percent)	MINIMUM LOT SIZE	LANDSCAPING (percent)
	FRONT (metres)	SIDE (metres)	REAR (metres)			
RESIDENTIAL	7.5 (A)	3 (A)	7.5 (A)	30 (A)	(A) & (B)	10 (A)
COMMERCIAL	Nil	Nil	6	(B)	500m <sup>2</sup>	10
GENERAL INDUSTRY	9	5	7.5	50	2,000m <sup>2</sup>	10
LIGHT INDUSTRY	7.5	3	7.5	60	1,000m <sup>2</sup>	10
TOURIST ACCOMMODATION	10	3	(B)	(B)	(B)	10
SPECIAL RURAL	15	10	10	(B)	(C)	(B)
RURAL	20	20	30	(B)	(B)	(B)
TOURIST DEVELOPMENT	(B)	(B)	(B)	(B)	(B)	(B)

Notes:

- (A) These standards only apply to those developments not covered by the Residential Design Codes.  
 (B) As determined by Council on application.  
 (C) Lot sizes shall be determined by the approved Subdivision Guide Plan or standard adopted in Appendix 8 for each Special Rural Zone.  
 (D) Refer also to Clause 5.13 for land abutting a Residential Zone.

### 5.2 TWO STOREY BUILDING HEIGHT LIMIT

**5.2.1** No building on any lot within the Scheme Area shall contain more than two storeys (excluding any basement or undercroft level), or in any event exceed 8.5 metres to the highest portion of the building from the mean natural ground level of the site measured at right angles to the wall, but does not include any architectural feature or decoration (other than a free-standing sign) which may be approved by Council. Freestanding structures such as promotional towers and tank stands shall also be subject to the 8.5m height limit.

#### 5.2.2 Variation to Height Limit

**5.2.2.1** Council may, after following the procedures set out in Clause 6.4, approve buildings which exceed the height specified in Clause 5.2.1 when it is satisfied that the proposed building:

- (a) will not adversely affect the visual amenity of the locality;
- (b) will be in harmony with the character and height of buildings in the locality; and

- (c) will not adversely affect the existing beauty, character, quality of environment or streetscape generally.

**5.2.2.2** Proposals to vary the height restrictions pursuant to Clause 5.2.2.1 shall be accompanied by such plans, elevations and sketches as is determined by Council to assess the affect on the visual amenity of the locality, including:

- (a) the natural screening effect of any existing vegetation to be maintained on the site;
- (b) the natural screening effect of the existing topography of the site;
- (c) any proposed siteworks including recontouring of the site; and
- (d) any proposed landscaping to be provided.

### **5.3 DEVELOPMENT OF LAND SUBJECT TO DAMPNES OR FLOODING**

**5.3.1** Where in the opinion of Council, the dampness of the site on which a building is proposed to be constructed so warrants, Council may require that one or all of the following measures shall be carried out:

- (a) the subsoil shall be effectively drained;
- (b) the surface of the ground beneath the building shall be regraded or filled and provided with adequate outlets to prevent any accumulation or water beneath the building;
- (c) the surface of the ground beneath the building shall be covered with an approved damp-resisting material.

**5.3.2** Where a development is proposed on a site such that, in the opinion of Council, that development may be impacted upon by flooding, Council may require the proponents to provide technical advice from an appropriately qualified person to demonstrate that the development will not be adversely impacted on by flooding.

### **5.4 SETBACKS FROM WATERCOURSES**

Within the Scheme Area, Council shall not permit the erection of any building or effluent disposal system on any land within 50 metres of the nearest definable bank of any watercourse with permanent water, or within 40 metres of the nearest definable bank of any seasonally flowing watercourse or within 75 metres of the nearest definable bank of a river or estuary unless specific approval to vary this requirement is granted by Council.

### **5.5 RESIDENTIAL DEVELOPMENT: RESIDENTIAL DESIGN CODES**

**5.5.1** For the purpose of this Scheme 'Residential Design Codes' means the

Residential Design Codes set out in Appendix 1 to the Statement of Planning Policy No 3.1, together with any amendments thereto.

**5.5.2** A copy of the Residential Design Codes, as amended, shall be kept and made available for public inspection at the offices of Council.

**5.5.3** Unless otherwise provided for in the Scheme the development of land for any of the residential purposes dealt with by the Residential Design Codes shall conform to the provisions of those Codes.

**5.5.4** The Residential Density Coding of land shall be in accordance with that shown on the Scheme Map.

**5.5.5 Variation to Residential Design Codes: Multiple Dwellings**

- (a) The general site requirements of Table 1 of the Residential Design Codes for Multiple Dwellings at the R35 Code shall apply to any proposal for Multiple Dwellings(s) on land coded R30.
- (b) Notwithstanding Table 1, Multiple Dwellings are not permitted on land with a density coding below R30.

**5.5.6 Variation to Residential Design Codes: Car Parking**

Parking requirements for Grouped Dwellings and Multiple Dwellings have been varied from those contained in the Residential Design Codes and are set out in Table 3 – Car Parking Standards.

**5.5.7 Variation to Residential Design Codes: Design Guidelines**

Clause 5.32 provides for Design Guidelines to be required in areas which are visually prominent and/or of landscape significance. To the extent of any inconsistency between the Residential Design Codes and Design Guidelines adopted by Council pursuant to Clause 5.32, the Design Guidelines shall apply.

**5.6 COMMERCIAL/RESIDENTIAL MIXED DEVELOPMENTS**

Where the ground floor of a multi-storey building in the Commercial Zone is used for the purposes of shops, offices or other similar commercial activities, the upper floor of such buildings may be used for similar commercial activities, or residential accommodation providing that:

- (a) the residential use is confined to the upper floor; and
- (b) the residential unit is used only by the owner/occupier of a commercial activity within the building.

**5.7 CAR PARKING**

**5.7.1** With the exception of rural pursuits, on-site car parking shall be provided to

accommodate normal car parking requirements of that use as determined by Council, in accordance with the Table 3 – Car Parking Standards and Appendix 9 Car Parking Area Design.

**Table 3 – CAR PARKING STANDARDS**

<b>LAND USE</b>	<b>CAR PARKING SPACES REQUIRED</b>
Bank	1 bay per 20m <sup>2</sup> GLA
Bed and Breakfast	1 bay per bedroom
Bowling Alley	2.5 bays per lane
Caravan Park	1 bay per site plus 1 visitor bay per 5 sites
Child Care Premises	1 bay per 5 children
Church	1 bay per 4 persons
Cinema/Theatre	1 bay per 4 persons
Consulting Rooms	4 bays per consultant
Convenience Store	6 bays per 100m <sup>2</sup> GLA
Factory Unit Building	1 bay per 100m <sup>2</sup> GLA plus 1 bay per 2 units
Fast Food Outlet	1 bay per 10m <sup>2</sup> GLA
Grouped Dwelling	2 bays per dwelling plus 1 bay per each 2 dwellings, in excess of 2 dwellings, served by a common access
Health Centre	3 bays per consulting room
Holiday Accommodation	As determined by Council in accordance with Clause 5.7.4 of the Scheme
Hospital	1 bay per 4 beds plus 1 bay per employee
Hotel	1 bay per bedroom plus 1 bay per 4m <sup>2</sup> of lounge/bar area
Industry – General	1 bay per 100m <sup>2</sup> GLA
Industry – Light	1 bay per 50m <sup>2</sup> GLA
Industry – Service	1 bay per 50m <sup>2</sup> GLA service area plus 1 bay per 20m <sup>2</sup> GLA commercial area
Library	1 bay per 35m <sup>2</sup> floor area
Motel	1 bay per bedroom plus 1 bay per 10m <sup>2</sup> of restaurant/public area
Multiple Dwelling	0.35 bays per dwelling plus 1 bay per bedroom with a maximum of 3 bays per dwelling
Museum	1 bay per 35m <sup>2</sup> floor area
Office	1 bay per 20m <sup>2</sup> GLA
Private Club	1 bay per 4 seats
Reception Centre	1 bay per 4 seats
Restaurant	1 bay per 4 seats
School	Primary – 1 bay per classroom Secondary – 2 bays per classroom
Service Station	2 bays per workshop bay plus 1 bay per employee
Shop	1 bay per 20m <sup>2</sup> GLA
Showroom	1 bay per 50m <sup>2</sup> GLA
Single House	As per the Residential Design Codes
Sports Hall	1 bay per 20m <sup>2</sup> floor area

<b>LAND USE</b>	<b>CAR PARKING SPACES REQUIRED</b>
Tavern	1 bay per 5m <sup>2</sup> of restaurant/public area
Warehouse	1 bay per 200m <sup>2</sup> GLA
Other Uses	The parking requirements for those uses not listed shall be as determined by Council in accordance with clause 5.7.4 of the Scheme

*GLA means Gross Leasable Area.*

- 5.7.2** All car-parking areas shall be designed, constructed and drained to the satisfaction and specifications of Council.
- 5.7.3** All car-parking areas with 10 or more car parking bays shall include landscaped areas equal to 10 per cent of the area of the car park.
- 5.7.4** Where the purpose for which the land and/or building is to be used is not specified in Table 3 – Car Parking Standards, Council shall determine the number of car parking bays to be provided on the land having regard to the nature of the proposed development.
- 5.7.5** Council shall have regard to and may impose conditions concerning:
- (a) the proportion of car parking spaces roofed or otherwise covered;
  - (b) the means of access to each car parking space and the adequacy of any vehicular manoeuvring area;
  - (c) the location of the car parking spaces on the site and their effect on the amenity to adjoining development of land, including the potential effect of those spaces should the latter be roofed or otherwise covered;
  - (d) the extent to which car parking spaces are located within required building setback areas;
  - (e) the location of the proposed public footpaths, vehicular crossings, of private footpaths within the lot and the effect of both pedestrian and vehicular traffic movement and safety.

## **5.8 SHARED OR COMBINED CAR PARKING**

- 5.8.1** Council may permit land uses to share car parking facilities provided it is satisfied:
- (a) no conflict will occur as a result of the joint use of the car parking facilities; and
  - (b) the peak demands for car parking from the activities sharing the car parking area do not coincide.
- 5.8.2** Where Council permits the joint use of car parking facilities it may require the landowners to enter into a suitable legal agreement with each other



landowner to ensure reciprocal rights to the shared car parking facilities.

## **5.9 CAR PARKING FUND**

Council may accept a cash payment in lieu of the provision of on-site car parking provided:

- (a) such cash-in-lieu payment shall not be less than the estimated cost to the owner of providing and constructing the car parking spaces otherwise required by the Scheme, plus the value as estimated by Council, of that area of land, which would have been occupied by the car parking spaces.
- (b) before Council agrees to accept a cash-in-lieu payment of the provision of car parking spaces, Council shall either have already provided a public car park area nearby or must have firm proposals for providing a public car park area nearby within a period of not more than 4 years from the time of agreeing to accept the cash-in-lieu payment.
- (c) payments made under this Clause shall be deposited into a Special Fund to be used exclusively for the provision of public car parking facilities.
- (d) If an owner shall object to the amount of the costs or values determined by Council pursuant to sub-clause (a), the matter shall be referred to arbitration.

## **5.10 USE OF SETBACKS**

The setback areas within any Zone, except for residential use within the Residential Zone, shall not be used for any purpose other than one or more of the following without the approval of Council:

- (a) a means of access/egress;
- (b) landscaping;
- (c) the loading and unloading (but not storage) of goods;
- (d) the parking of vehicles;
- (e) trade display provided no more than 10 percent of the area is used.

## **5.11 REFUSE STORAGE AREAS**

Council shall require all grouped and multiple dwelling, tourist, commercial and industrial developments provide a refuse bin storage area, readily accessible to service vehicles and screened from view from public places by a closed fence, wall or screen landscaping no less than 1.2 metres in height.

## **5.12 LANDSCAPING**

**5.12.1** Landscaping shall be provided in accordance with the provisions set out in the Table 2 – Development Standards.

**5.12.2** Landscaping shall be provided and maintained in accordance with a landscape plan approved by Council within 30 days of completion of the development, or such other time as agreed by Council and shall be maintained by the occupier.

**5.13 DEVELOPMENT ON LAND ABUTTING A RESIDENTIAL ZONE**

Any non-residential development on land abutting a Residential Zone shall conform to such standards as Council determines. These standards shall be assessed on the basis of the potential nuisance or conflict of the proposed development on the existing residential area.

**5.14 FACTORY UNIT BUILDINGS**

All factory unit buildings shall:

- (a) be constructed so that no occupancy has a floor area less than 100m<sup>2</sup> or either its width or length less than 8 metres;
- (b) have an adjacent open yard no smaller than one-third of the floor area of the occupancy; and
- (c) together with its open yard, have direct access to a service road not less than 6 metres in width.

**5.15 OUTDOOR STORAGE OF MATERIALS**

All outdoor areas used for the storage of motor vehicle bodies, timber, steel products or any other products or wastes in connection with a commercial or industrial use shall be screened from view from any public place by a closed wall, fence or screen landscaping as determined by Council.

**5.16 VEHICLE ACCESS/EGRESS POINTS**

**5.16.1** Council may refuse to permit more than one vehicle access/egress point from any lot or may require separate access/egress points.

**5.16.2** All vehicle accessways, other than in the Residential Zone, shall be constructed so that all vehicles can enter and leave the lot in forward gear.

**5.16.3** All vehicle accessways shall be designed, constructed and drained to the satisfaction and specifications of Council.

**5.16.4** No vehicle accessway shall be located within the corner truncation of any lot having two or more street frontages.

**5.17 LOADING AND UNLOADING OF VEHICLES**

Council shall require an area (other than a car parking space) for loading and unloading of materials, and parking of vehicles associated with any commercial, tourist or industrial use to be provided on-site of the lot on which the uses are located.

#### **5.18 BUS AND COACH PARKING**

Council shall require an area (other than a car parking space) for the loading/unloading and parking of tourist buses and coaches associated with any tourist use to be provided on-site of the lot on which the uses are located.

#### **5.19 VEHICLES, CARAVANS, TRAILERS AND BOATS IN RESIDENTIAL AREAS**

Except as hereinafter provided, no person on any lot within the Residential Zone may without the written approval of Council:

- (a) allow any commercial vehicle or truck to remain or park for a period of more than 48 hours consecutively;
- (b) repair, maintain, service or clean a commercial vehicle or truck;
- (c) keep, park, repair or store any boat, trailer, caravan or any associated material not specifically for the immediate use by the occupant in front of the building setback line.

#### **5.20 TEMPORARY ACCOMMODATION**

**5.20.1** Council may approve the occupation of a caravan or other temporary accommodation on a lot only if it has approved an application for the development of a habitable building in accordance with the Building Code of Australia.

**5.20.2** The permit for such occupation of a temporary accommodation shall not exceed 12 months.

**5.20.3** Council shall not issue another permit or extension unless it is satisfied that there has been a genuine effort to complete the approved building pursuant to the original temporary accommodation permit.

#### **5.21 RELOCATED BUILDINGS**

**5.21.1** A relocated building may not be transported to and placed on any lot or utilised for any purpose within the Scheme Area without the prior written approval of Council and in accordance with any conditions contained in such approval.

**5.21.2** In considering whether or not to grant approval for a relocated building Council shall have special regard to:

- (a) the existing appearance and proposed external materials and finishes of the building; and any alterations proposed thereto;
- (b) the amenity of the locality, including the existing buildings in the area;
- (c) the visual prominence of the site on which the building is to be located;
- (d) any landscaping or screening proposed for the site; and
- (e) all applicable statutes, by-laws and regulations relating to buildings applicable both to the relocated building and the lot upon which it is to be located following transportation.

**5.21.3** In granting an approval for a relocated building Council may impose conditions which require landscaping to be established within a specified time and thereafter maintained.

## **5.22 HOME OCCUPATIONS**

### **5.22.1 Application for Home Occupations**

Every application for a home occupation shall be made in the form prescribed in Appendix 3 of the Scheme and shall contain the following information:

- (a) location of the home occupation;
- (b) the area of the floor space to be devoted to the activity;
- (c) the times during which the activity will occur;
- (d) details of the precise nature of the activity and statement that the activity will be managed so as to not adversely impact on the residential amenity of the area.

**5.22.2** All approvals granted for a home occupation shall be for a maximum period of 12 months.

## **5.23 COTTAGE INDUSTRIES**

### **5.23.1 Application for Cottage Industry**

Every application for a cottage industry shall be made in the form prescribed in Appendix 3 of the Scheme and shall contain the following information:

- (a) location of the cottage industry;
- (b) the area of building and floor space to be devoted to the activity;
- (c) the times during which the activity will occur;

- (d) details of the precise nature of the activity and statement that the activity will be managed so as to not adversely impact on the amenity of the area.

**5.23.2** All approvals granted for a cottage industry shall be for a maximum period of 12 months.

## **5.24 KALBARRI WASTEWATER TREATMENT PLANT BUFFER**

In considering any application for planning consent for development or land use within the Wastewater Treatment Plant Buffer (as shown in the Scheme Report, or as varied from time to time), Council shall have regard to:

- (a) whether the proposed development or use is compatible with the existing and future use of the Kalbarri Wastewater Treatment Plant; and
- (b) relevant policies of the Commission, Statements of Planning Policy, and the Department of Environment guidelines with respect to land use in close proximity to wastewater treatment plants; and
- (c) where the nature of the proposal warrants referral to these agencies, the recommendations of the Department of Environment, the Department of Health and the public authority responsible for control and management of the Wastewater Treatment Plant.

## **5.25 DOMESTIC WATER SUPPLIES**

No new dwelling house or tourist accommodation unit shall be constructed within the Scheme Area unless:

- (a) it is connected to the Water Corporation reticulated water supply; or
- (b) it is connected to an approved supply of potable water; or
- (c) it incorporates into the approved plans a roof catchment water tank having a minimum capacity of 92,000 litres.

## **5.26 POWER TO CONTROL ADVERTISEMENTS**

**5.26.1** Council's objectives in the control of advertising are to secure the orderly and proper planning and amenity of the Scheme Area through the control of advertisements by the examination and determination of applications for advertising signs in the light of:

- (a) the impact of new advertisements upon residential, rural and recreational areas;
- (b) the potential of any proposed advertisement to enhance or detract from the visual amenity and character of an area;

- (c) the potential for the rationalisation, consolidation or removal of existing advertisements where amenity is already impaired by poor, excessive or derelict advertising;
- (d) requiring advertising to be directly associated with the approved use of the property on which it is displayed.

**5.26.2** For the purpose of this Scheme, the erection, placement and display of advertisements and the use of land or buildings for that purpose is development within the definition of the Act requiring, except as otherwise provided, the prior approval of Council.

**5.26.3** Applications for Planning Consent pursuant to this Part shall be submitted in accordance with the provisions of Part VI of the Scheme and shall be accompanied by a completed Additional Information Sheet in the form set out at Appendix 6 giving details of the advertisement(s) to be erected, placed or displayed on the land.

#### **5.26.4 Existing Advertisements**

Advertisements which:

- (a) were lawfully erected, placed or displayed prior to the approval of this Scheme; or
- (b) may be erected, placed or displayed pursuant to a licence or other approval granted by Council prior to the approval of this Scheme,

hereinafter in this Part referred to as 'existing advertisements', may, except as otherwise provided, continue to be displayed or to be erected and displayed in accordance with the licence or approval as appropriate.

#### **5.26.5 Consideration of Applications**

Without limiting the generality of the matters which may be taken into account when making a decision upon an application for consent to erect, place or display an advertisement, Council shall examine each such application in the light of the objectives of the Scheme and Clause 5.26.1 and with particular reference to the character and amenity of the locality within which it is to be displayed, including its historic or landscape significance and traffic safety.

#### **5.26.6 Exemptions from the Requirement to Obtain Planning Consent**

**5.26.6.1** Subject to the provisions of the Main Roads (Control of Signs) Regulations 1983 and notwithstanding the provisions of Clause 5.26.2, Council's prior Planning Consent is not required in respect of those advertisements listed in Appendix 10 which for the purpose of this Clause are referred to as 'exempted advertisements'.

**5.26.6.2** The exemptions listed in Appendix 10 do not apply to land, buildings,

objects, structures and places included in the Municipal Heritage Inventory or within a Heritage Precinct established or designated under Part VII of this Scheme.

#### **5.26.7 Discontinuance**

Notwithstanding the Scheme Objectives and Clause 5.26.6, where Council can demonstrate exceptional circumstances which cause an exempted or existing advertisement to seriously conflict with the objectives of this Part, it may by notice in writing (giving clear reasons) require the advertiser to remove, relocate, adapt or otherwise modify the advertisement within a period of time specified in the notice.

#### **5.26.8 Derelict or Poorly Maintained Signs**

Where, in the opinion of Council, an advertisement has been permitted to deteriorate to a point where it conflicts with the objectives of the Scheme or it ceases to be effective for the purpose for which it was erected or displayed, Council may by notice in writing require the advertiser to:

- (a) repair, repaint or otherwise restore the advertisement to a standard specified by Council in the notice, or
- (b) remove the advertisement.

#### **5.26.9 Notices**

**5.26.9.1** 'The advertiser' shall be interpreted as any one person or any group comprised of the owner, occupier, licensee or other person having an interest in or drawing benefit from the display of the advertisement concerned.

**5.26.9.2** Any notice served in exceptional circumstances pursuant to Clauses 5.26.7 or 5.26.8 shall be served upon the advertiser and shall specify:

- (a) the advertisement(s) the subject of the notice;
- (b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice;
- (c) the period, not being less than 30 days, within which the action specified shall be completed by the advertiser.

**5.26.9.3** Any person upon whom a notice is served pursuant to this Clause may, within period of 60 days from the date of the notice, appeal to the Town Planning Appeal Tribunal in accordance with Part V of the Act, and where any such appeal is lodged the effect of the notice shall be suspended until the decision to uphold, quash or vary the notice is known and shall thereafter have effect according to that decision.

#### **5.26.10 Scheme to Prevail**

Where the provisions of this Part are found to be at variance with the provisions of Council's Signs Policy or adopted by-law relating to Signs, the provisions of the Scheme shall prevail.

#### **5.26.11 Enforcement and Penalties**

The offences and penalties specified in Clause 8.2 of the Scheme apply to the advertiser in this Clause.

### **5.27 OPERATION OF SPECIAL CONTROL AREAS**

**5.27.1** The following Special Control Areas are shown on the Scheme Map:

Development Area.

**5.27.2** In respect of a Special Control Area shown on the Scheme Map, the provisions applying to the special control area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.

### **5.28 DEVELOPMENT AREAS**

#### **5.28.1 Interpretations**

In Clause 5.28, unless the context otherwise requires:

“owner” means an owner or owners of land in the development area; and  
“structure plan” means a structure plan that has come into effect in accordance with clause 5.28.12.1.

#### **5.28.2 Purpose of Development Areas**

**5.28.2.1** The purposes of Development Areas are to:

- (a) identify areas requiring comprehensive planning; and
- (b) coordinate subdivision and development in areas requiring comprehensive planning.

**5.28.2.2** Appendix 11 describes the Development Areas in detail and sets out the specific purposes and requirements that apply to the Development Areas.

#### **5.28.3 Subdivision and Development in Development Areas**

**5.28.3.1** The development of land within a development area is to comply with Appendix 11.

**5.28.3.2** The subdivision and development of land within a Development Area is to generally be in accordance with any structure plan that applies to that land.

#### **5.28.4 Structure Plan Required**



**5.28.4.1** Council is not to:

- (a) consider recommending subdivision; or
- (b) approve development

of land within a Development Area unless there is a structure plan for the Development Area or for the relevant part of the Development Area.

**5.28.4.2** Notwithstanding Clause 5.28.4.1, Council may recommend subdivision or approve the development of land within a Development Area prior to a structure plan coming into effect in relation to that land, if Council is satisfied that this will not prejudice the specific purposes and requirements of the Development Area.

**5.28.5 Preparation of Proposed Structure Plans**

**5.28.5.1** A proposed structure plan may be prepared by:

- (a) the Council; or
- (b) an owner.

**5.28.5.2** A proposed structure plan may be prepared for all, or part of, a Development Area.

**5.28.6 Details of Proposed Structure Plan**

**5.28.6.1** A proposed structure plan is to contain the following details:

- (a) a map showing the area to which the proposed structure plan is to apply;
- (b) a site analysis map showing the characteristics of the site including:
  - (i) landform, topography and land capability;
  - (ii) conservation and environmental values including bushland, wetlands, damp lands, streams and water courses, foreshore reserves and any environmental policy areas;
  - (iii) hydrogeological conditions, including approximate depth to water table; and
  - (iv) sites and features of Aboriginal and European heritage value.
- (c) a context analysis map of the immediate surrounds to the site including:
  - (i) the pattern of neighbourhoods, and existing and planned neighbourhood, town and regional centres;

- (ii) transport routes, including arterial routes and neighbourhood connector alignments, public transport routes and bus stops (if applicable) and strategic cycle routes; and
  - (iii) existing and future land use.
- (d) for local structure plans a map showing proposals for:
- (i) neighbourhoods around proposed neighbourhoods and town centres;
  - (ii) existing and proposed commercial centres;
  - (iii) natural features to be retained;
  - (iv) street block layouts;
  - (v) the street network including street types;
  - (vi) transportation corridors, public transport network (if applicable), and cycle and pedestrian networks;
  - (vii) land uses including residential densities and estimates of population;
  - (viii) school(s) and community facilities;
  - (ix) public parklands; and
  - (x) urban water management areas.
- (e) a written report to explain the mapping and to address the following:
- (i) the planning framework for the structure plan including any applicable regional or district structure plans, and any policies, strategies and scheme provisions which apply to the land, and any environmental conditions which apply under the Scheme;
  - (ii) the site analysis including reference to the matters listed in Clause 5.28.6.1 (b) above, and, in particular, the significance of the conservation, environmental and heritage values of the site;
  - (iii) the context analysis including reference to the matters listed in Clause 5.28.6.1 (c) above;
  - (iv) how planning for the structure plan area is to be integrated with the surrounding land;
  - (v) the design rationale for the proposed pattern of subdivision, land use and development;

- (vi) traffic management and safety;
- (vii) parkland provision and management;
- (viii) urban water management;
- (ix) proposals for public utilities including sewerage, water supply, drainage, gas, electricity and communication services; and
- (x) the proposed method of implementation including any cost sharing arrangements and details of any staging of subdivision and development.

**5.28.6.2** The maps referred to in Clause 5.28.6.1 are to:

- (a) be drawn to a scale that clearly illustrates the details referred to in Clause 5.28.6.1; and
- (b) include a north point, visual bar scale, key street names and a drawing title and number.

**5.28.6.3** A proposed structure plan may, to the extent that it does not conflict with the Scheme, impose a classification on the land included in it by reference to Reserves, Zones or the Residential Design Codes, and where the proposed structure plan becomes a structure plan, Council is to have due regard to such Reserves, Zones or Residential Design Codes when recommending subdivision or approving development of land within a Development Area.

**5.28.6.4** A proposed structure plan must, in the opinion of Council, be consistent with orderly and proper planning.

### **5.28.7 Submission to the Council and Commission**

**5.28.7.1** A proposed structure plan prepared by an owner is to be submitted to Council.

**5.28.7.2** Within 7 days of preparing or receiving a proposed structure plan which proposes the subdivision of land, Council is to forward a copy of the proposed structure plan to the Commission.

**5.28.7.3** The Commission is to provide comments to Council as to whether it is prepared to endorse the proposed structure plan with or without modifications.

**5.28.7.4** The Commission must provide its comments to Council within 30 days of receiving the proposed structure plan.

**5.28.8 Advertising of Structure Plan**

**5.28.8.1** Within 60 days of preparing or receiving a proposed structure plan that conforms with Clause 5.28.6 and complies with the Scheme (or such longer time as may be agreed in writing between the owner who submitted the proposed structure plan and Council), Council is to:

- (a) advertise, or require the owner who submitted the proposed structure plan to advertise, the proposed structure plan for public inspection by one or more of the following ways:
  - (i) notice of the proposed structure plan published in a newspaper circulating in the Scheme area; and
  - (ii) a sign or signs displaying notice of the proposed structure plan to be erected in a conspicuous place or places in the development area, or part of the development area, to which the proposed structure plan applies.
- (b) give notice or require the owner who submitted the proposed structure plan to give notice, in writing to:
  - (i) all owners whose land is included in the proposed structure plan;
  - (ii) all owners and occupiers who, in the opinion of Council, are likely to be affected by the adoption of the proposed structure plan; and
  - (iii) such public authorities and other persons as Council nominates.

**5.28.8.2** The advertisement and notice are to:

- (a) explain the scope and purpose of the proposed structure plan;
- (b) specify when and where the proposed structure plan may be inspected; and
- (c) invite submissions to be lodged with Council by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.

**5.28.9 Adoption of Proposed Structure Plan**

**5.28.9.1** Council is to consider all submissions received and within 60 days of the latest date specified in the notice or advertisement for the making of submissions is to:

- (a) adopt the proposed structure plan, with or without modifications; or

- (b) refuse to adopt the proposed structure plan and, where the proposed structure plan was submitted by an owner, give reasons for this to the owner.

**5.28.9.2** In making a determination under Clause 5.28.9.1, Council is to have due regard to the comments and advice received from the Commission in relation to the proposed structure plan.

**5.28.9.3** If the Commission requires modifications to the proposed structure plan, Council is to consult with the Commission prior to making a determination under Clause 5.28.9.1.

**5.28.9.4** If Council, after consultation with the Commission, is of the opinion that a modification to the proposed structure plan is substantial, Council may:

- (a) readvertise the proposed structure plan; or
- (b) require the owner who submitted the proposed structure plan to readvertise the proposed structure plan.

and thereafter, the procedures set out in Clause 5.28.8.1 onwards are to apply.

**5.28.9.5** If within the period referred to in Clause 5.28.9.1, or such further time as may be agreed in writing between the owner who submitted the proposed structure plan and Council, Council has not made a determination under Clause 5.28.9.1, Council is deemed to have refused to adopt the proposed structure plan.

#### **5.28.10 Endorsement by Commission**

**5.28.10.1** If the proposed structure plan proposes the subdivision of land, then within 7 days of making its determination under Clause 5.28.9.1, Council is to forward the proposed structure plan to the Commission for its endorsement.

**5.28.10.2** As soon as practicable after receiving the proposed structure plan, the Commission is to determine whether to endorse the proposed structure plan.

**5.28.10.3** The Commission is to notify Council of its determination under Clause 5.28.10.2.

#### **5.28.11 Notification of Structure Plan**

As soon as practicable after adopting a proposed structure plan under Clause 5.28.9.1 and if Clause 5.28.10 applies, as soon as practicable after being notified of the Commission's decision under Clause 5.28.10.3, Council is to forward a copy of the structure plan to:

- (a) any public authority or person that Council thinks fit; and

- (b) where the structure plan was submitted by an owner, to the owner.

## **5.28.12 Operation of Structure Plan**

### **5.28.12.1** A structure plan comes into effect:

- (a) where the structure plan proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to Clause 5.28.10.2; or
- (b) on the day on which it is adopted by Council under Clause 5.28.9.1 in all other cases.

**5.28.12.2** If a provision of a structure plan is inconsistent with a provision of the Scheme, then the provision of the Scheme prevails to the extent of the inconsistency.

## **5.28.13 Inspection of Structure Plan**

The structure plan and the Commission's notification under Clause 5.28.10.3 is to be kept at Council's administrative offices, and is to be made available for inspection by any member of the public during office hours.

## **5.28.14 Variation to Structure Plan**

### **5.28.14.1** Council may vary a structure plan:

- (a) by resolution if, in the opinion of Council, the variation does not materially alter the intent of the structure plan;
- (b) otherwise, in accordance with the procedures set out in clause 5.28.6 onwards.

**5.28.14.2** If Council varies a structure plan by resolution, and the variation does not propose the subdivision of land, Council is to forward a copy of the variation to the Commission within 10 days of making the resolution.

**5.28.14.3** If Council varies a structure plan by resolution, and the variation proposes the subdivision of land, Council is to forward a copy of the variation to the Commission within 10 days of making the resolution for its endorsement.

**5.28.14.4** As soon as practicable after receiving the copy of the variation referred to in Clause 5.28.14.3, the Commission is to determine whether to endorse the proposed variation.

**5.28.14.5** The Commission is to notify Council of its determination under Clause 5.28.14.4.

**5.28.14.6** A variation to a structure plan by resolution comes into effect:

- (a) where the variation proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to Clause 5.28.14.4; or
- (b) on the day on which Council resolves to make the variation under clause 5.28.14.1 (a).

### **5.28.15 Detailed Area Plan**

**5.28.15.1** Where it is considered desirable to enhance, elaborate or expand the details or provisions contained in a structure plan for a particular lot or lots, a detailed area plan may be prepared by:

- (a) the Council; or
- (b) an owner.

**5.28.15.2** A detailed area plan may include details as to:

- (a) building envelopes;
- (b) distribution of land uses within a lot;
- (c) private open space;
- (d) services;
- (e) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection enclosures;
- (f) the location, orientation and design of buildings and the space between buildings;
- (g) advertising signs, lighting and fencing;
- (h) landscaping, finished site levels and drainage;
- (i) protection of sites of heritage, conservation or environmental significance;
- (j) special development controls and guidelines; and
- (k) such other information considered relevant by the Council.

**5.28.15.3** When a proposed detailed area plan is prepared under Clause 5.28.15.1, Council is to:

- (a) advertise, or require the owner who submitted the proposed detailed area plan to advertise, the proposed detailed area plan for public inspection by one or more of the following ways:

- (i) notice of the proposed detailed area plan published in a newspaper circulating in the Scheme area;
  - (ii) a sign or signs displaying notice of the proposed detailed area plan to be erected in a conspicuous place or places in the development area, or part of the development area, to which the proposed detailed area plan applies; and
- (b) give notice or require the owner who submitted the proposed detailed area plan to give notice, in writing to:
- (i) all owners whose land is included in the proposed detailed area plan;
  - (ii) all owners and occupiers who, in the opinion of Council, are likely to be affected by the adoption of the proposed detailed area plan;
  - (iii) such public authorities and other persons as Council nominates.

**5.28.15.4** The advertisement and notice are to:

- (a) explain the scope and purpose of the proposed detailed area plan;
- (b) specify when and where the proposed detailed plan may be inspected; and
- (c) invite submissions to Council by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.

**5.28.15.5** Council is to consider all submissions received and:

- (a) approve the detailed area plan with or without conditions; or
- (b) refuse to approve the detailed area plan and, where the proposed detailed area plan was submitted by an owner, give reasons for this to the owner.

**5.28.15.6** If within 60 days of receiving a detailed area plan prepared under Clause 5.28.15.1 (b), or such longer period as may be agreed in writing between the owner and Council, Council has not made one of the determinations referred to in Clause 5.28.15.5, Council is deemed to have refused to approve the detailed area plan.

**5.28.15.7** Once approved by Council, the detailed area plan constitutes a variation of the structure plan.

**5.28.15.8** Council may vary a detailed area plan in accordance with the procedures set out in Clause 5.28.15 onwards provided such variations do not prejudice the intention of any related structure plan.



**5.28.16 Appeal**

**5.28.16.1** An owner who has submitted a proposed structure plan under Clause 5.28.7.1 may appeal, under Part V of the Town Planning Act:

- (a) any failure of Council to advertise, or require the owner to advertise, a proposed structure plan within the required time period under Clause 5.28.8.1;
- (b) any determination of Council:
  - (i) to refuse to adopt a proposed structure plan (including a deemed refusal); or
  - (ii) to require modifications to a proposed structure plan that are unacceptable to that owner.

**5.28.16.2** An owner who has submitted a detailed area plan in accordance with Clause 5.28.15 may appeal, in accordance with Part V of the Town Planning Act, any discretionary decision made by Council under clause 5.28.15.

**5.29 COASTAL AND RIVER FORESHORE PLANNING AREA**

**5.29.1** The Coastal and River Foreshore Planning Area is that area shown on the Scheme Map as such and includes the landforms of:

- (a) inshore reefs;
- (b) nearshore waters;
- (c) beaches, mobile dunes and vegetated foreshore areas exposed to onshore winds;
- (d) a fringe of stable land suitable for coast-related activities; and
- (e) the Murchison River estuary and adjacent foreshore reserves.

**5.29.2** Within the Coastal and River Foreshore Planning Area, Council may prepare policies for coastal planning and management, and prepare management strategies in order to implement any such policy.

**5.29.3** The principal use of land within the Coastal and River Foreshore Planning Area shall be related to the environmental, cultural, recreational, and/or scenic values of the area.

**5.30 DEVELOPMENT IN SPECIAL RURAL ZONES**

The provisions for controlling subdivision, land uses and development relating to specific Special Rural Zones shall be as set out in Appendix 8. These provisions apply in addition to those contained elsewhere in the

Scheme. To the extent of any inconsistency, the provisions in Appendix 8 shall apply.

### **5.31 PROVISIONS FOR SPECIFIC TOURIST ACCOMMODATION ZONES**

**5.31.1** The following provisions apply to the Tourist Accommodation Zone on a portion of Victoria Location 11493 Ajana-Kalbarri Road, in addition to those contained elsewhere in the Scheme. To the extent of any inconsistency, the provisions of this Clause shall apply.

#### Uses Not Permitted

(a) Notwithstanding anything contained within the Zoning Table, the following uses are not permitted within this Tourist Accommodation Zone:

- Bed and Breakfast
- Cinema/Theatre
- Hotel
- Reception Centre
- Restaurant
- Single House
- Tavern
- Temporary Accommodation

(b) Also, notwithstanding anything contained within the Zoning Table, the following uses may only be approved by Council if they are, in the opinion of Council, incidental to the use of the property for tourist accommodation purposes:

- Convenience Store
- Health Studio
- Laundromat

#### Subdivision

(c) Subdivision shall be generally in accordance with the Subdivision Guide Plan (Map 3) contained within the Amendment documents for Amendment No 37 to Town Planning Scheme No 4 upon gazettal of that Amendment.

#### Building

(d) All building on the lot shall be erected within the building envelope defined on the Subdivision Guide Plan (Map 3) contained within the Amendment documents for Amendment No 37 to Town Planning Scheme No 4 upon gazettal of that Amendment.

(e) The building envelope shall not exceed 8,000m<sup>2</sup> in area.

- (f) No building envelope or effluent disposal system shall be located within the Landscape Protection Area defined on the Subdivision Guide Plan (Map 3) contained within the Amendment documents for Amendment No 37 to Town Planning Scheme No 4 upon gazettal of that Amendment.
- (g) Notwithstanding (d), Council may permit a variation to the location of the defined building envelope on the lot if it is shown to the satisfaction of Council that the proposed location of the building envelope will not be detrimental to the landscape or environment and satisfies the following minimum setbacks:
- Front Boundary 30 metres
  - Rear Boundary 20 metres
  - Side Boundaries 15 metres
- (h) All buildings shall be sympathetic to existing landscape elements, namely landform and vegetation, in terms of their design, building height, materials and cladding colours.
- (i) All buildings shall be constructed utilising roof and external wall materials comprising natural earth or green vegetation colours.
- (j) The use of zincalume, galvanised iron and other coloured (including white or off-white) roof and wall materials which, in the opinion of Council, prejudice the landscape amenity of the adjacent Kalbarri National Park and surrounding area, are not permitted.
- (k) All stormwater shall be disposed of within the lot and shall not be directed into the Landscape Protection Area.
- (l) No building shall exceed two (2) storeys in height.

#### Vegetation Protection

- (m) Council may request the Commission to impose a condition at the time of subdivision that requires the subdivider to construct 'rural style' perimeter fencing (seven line ringlock and single strand top wire with posts at appropriate separations) for the lot.
- (n) Council may request the Commission to impose a condition at the time of subdivision that requires the subdivider to undertake a tree planting program within cleared areas of the Landscape Protection Area with local indigenous species to the satisfaction of Council.

#### Servicing

- (o) Council shall require that any development on the site is connected to an approved alternative waste water treatment system or packaged

sewerage system to the satisfaction of Council in consultation with the Department of Health. The maximum number of people that can be accommodated on the site will be determined by the capacity of the site for on-site effluent disposal.

- (p) Council may request the Commission to impose a condition at the time of subdivision that requires the subdivider to prepare a fire management plan and undertake appropriate fire control measures within the Zone to the satisfaction of Council in consultation with the Fire and Emergency Services Authority of WA.
- (q) Council may request the Commission to impose a condition at the time of subdivision that requires the subdivider to connect the lot to a potable reticulated water supply.
- (r) Council may request the Commission to impose a condition at the time of subdivision that requires the subdivider to design and construct a sealed subdivisional road incorporating a suitable cul-de-sac head and drainage to the satisfaction of Council in consultation with Main Roads WA.
- (s) Council shall require that access/egress from the Tourist Accommodation site is restricted to the proposed subdivisional road only.

#### Surrounding Land Uses and Conflict

- (t) The development of the Tourist Accommodation Zone is undertaken with acknowledgement that special rural living, keeping of horses, equestrian centre and associated and incidental activities are undertaken within the immediate vicinity of the Zone and owner(s)/manager(s) and patrons are fully aware of this situation and shall operate in such a manner so as to not create conflict with these other land uses.

**5.31.2** The following provisions apply to the Tourist Accommodation Zone on the corner of Walker Street and Nanda Drive, in addition to those contained elsewhere in the Scheme.

- (a) In considering any Application for Planning Consent in this Zone, Council will have regard to remnant vegetation on the lot and will require the retention of as much of this vegetation within any development as is considered practicable and desirable by Council.

### **5.32 WATER SENSITIVE URBAN DESIGN**

**5.32.1** The objectives of this Clause are to:

- (a) increase the quality of stormwater runoff from all residential, commercial and industrial areas; and

- (b) promote sustainable development that incorporates the best management practices of water sensitive urban design.

**5.32.2** Any subdivision or development (residential, commercial, industrial) that increases the area of impermeable surfaces should incorporate the principles and best management practices detailed in the Stormwater Management Manual for WA from the Department of Environment as amended from time to time.

### **5.33 DESIGN GUIDELINES**

**5.33.1** Council may request the Commission to impose a condition at the time of any subdivision of the portion of the Port Kalbarri/Browne's Farm development north of Jacques Boulevard, or of any other area which is visually prominent and/or of landscape significance, that requires the preparation of design guidelines for adoption by Council to ensure development is of appropriate scale, form, materials and colours so as to minimise adverse impact on the landscape values of the area.

**5.33.2** Within any such area all development shall comply with the design guidelines adopted by Council.

## **Part 6 PLANNING CONSENT**

### **6.1 PLANNING CONSENT**

**6.1.1** Subject to Clause 6.1.2 a person shall not commence or carry out any development, including a change in the use of any land, without first having applied for and obtained the Planning Consent of Council.

**6.1.2** The Planning Consent of Council is not required for the following development of land:

- (a) the use of land in a Reserve, where such land is vested in the Council or Public Authority, for the purpose for which the land is Reserved under the Scheme, or in the case of land vested in a Public Authority, for any purpose for which such land may be lawfully used by that Authority;
- (b) the erection of a boundary fence except as otherwise required by the Scheme;
- (c) the carrying out of any works on, in, over or under a street or road by a Public Authority acting pursuant to the provisions of any Act;
- (d) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;
- (e) the carrying out of works urgently necessary in the public safety or for the safety or security of plant or equipment or for the maintenance of essential services;
- (f) the erection on a lot of a Single House, including ancillary outbuildings, in the Residential, Special Rural and Rural Zones where the symbol "P" appears in the cross-reference to that Zone in the Zoning Table, subject to compliance with the Scheme requirements, except for Lots 288 and 291 Stiles Road, and except where the proposal requires the exercise of a discretion by Council under the Scheme to vary the provisions of the Residential Design Codes.

### **6.2 DISCRETION TO MODIFY DEVELOPMENT STANDARDS**

**6.2.1** If a development, other than a residential development, the subject of an Application for Planning Consent, does not comply with a standard or requirement prescribed by the Scheme with respect to signs, building height, setbacks, site coverage, car parking, landscaping and related matters, Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as Council thinks fit.

**6.2.2** The power conferred by this Clause may only be exercised if Council is

satisfied that:

- (a) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;
- (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality; and
- (c) the spirit and purpose of the requirement or standard will not be unreasonably departed from thereby.

### **6.3 APPLICATION FOR PLANNING CONSENT**

**6.3.1** Every Application for Planning Consent shall be made in the form prescribed in Appendix 2 to the Scheme and shall be accompanied by such plans and other information as is required by the Scheme.

**6.3.2** Unless Council determines otherwise, every Application for Planning Consent shall be accompanied by such information as may be reasonably required to enable the application to be determined and a plan or plans to a scale of not less than 1:500 showing:

- (a) street names, lot number(s), north point and the dimensions of the site;
- (b) the location and proposed use of the site, including any existing buildings to be retained and the location and use of buildings proposed to be erected on the site;
- (c) the existing and proposed means of access for pedestrians and vehicles to and from the site;
- (d) the location, number, dimensions and layout of all car parking, tourist coach or bus parking spaces intended to be provided;
- (e) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods of commodities to and from the site and the means of access to and from those areas;
- (f) the location, dimensions and design of any landscaped areas, open space areas, open storage or trade display areas and particulars of the manner in which it is proposed to develop the same;
- (g) the location of any underground services;
- (h) plans, elevations and sections of any building(s) including all exterior finishes proposed to be erected or altered and of any building it is intended to retain.

## **6.4 PUBLIC NOTICE**

**6.4.1** Council shall not grant its Planning Consent for the following classes of applications unless notice of the application is first given in accordance with the provisions of Clause 6.4.2:

- (a) an Application for Planning Consent which involves an 'SA' use as determined within Table 1 – Zoning Table;
- (b) an Application for Planning Consent which involves a use not mentioned in Table 1 – Zoning Table as determined by Clause 3.2.5;
- (c) any Application for Planning Consent of which Council determines public notice should be given;
- (d) an Application for Planning Consent to vary the height limit as determined in Clause 5.2.1.
- (e) an Application for Planning Consent which involves a non-conforming use as determined by Clause 4.2.

**6.4.2** Council may require the applicant to give notice or decide to give notice of an Application for Planning Consent and one or more of the following shall be carried out:

- (a) notice of the proposed development to be served on the owners and occupiers who are likely to be affected by the granting of Planning Consent stating that submissions may be made to Council by a specified date being not less than fourteen days of the service of such notice;
- (b) notice of the proposed development to be published in a newspaper circulating in the Scheme Area stating that submissions may be made to Council by a specified date being not less than fourteen days from the publication thereof;
- (c) sign or signs displaying notice of the proposed development to be erected in a conspicuous position on the land for the specified period from the date of publication of the notice referred to in subclause (b).

**6.4.3** The notice referred to in Clause 6.4.2 shall be in the form prescribed in Appendix 4 to the Scheme.

**6.4.4** Written submissions in respect of an Application for Planning Consent advertised in accordance with Clause 6.4.2 are to be lodged with Council within the period prescribed in the relevant advertisement or notice.

**6.4.5** After expiration of the period specified in Clause 6.4.2, Council shall consider any submissions received and determine the application.

**6.4.6** Any costs incurred by Council pursuant to Clause 6.4.2 shall be recoverable



from the applicant.

- 6.4.7** Council may decline to consider any submission that has not been lodged within the period specified in the relevant advertisement or notice or fails to comply with any other requirement applying to it.

## **6.5 DETERMINATION OF APPLICATIONS**

- 6.5.1** In determining an Application for Planning Consent Council may consult with any person, group or authority which, in the circumstances, it thinks appropriate.

- 6.5.2** In determining an application Council shall have regard to the objectives and provisions of the Scheme, and shall take into account inter alia:

- (a) the nature of the proposed development in relation to the development either existing or proposed on adjoining land;
- (b) the size, shape and character of the lot upon which the development is to be carried out and the influence which these factors may have on the siting and nature of any new building;
- (c) the design and external appearance (including the exterior cladding) of any building and its effect upon the amenity of existing buildings and the area generally;
- (d) the representations of any Statutory Bodies or other interested parties with whom it may confer;
- (e) submissions received in response to giving public notice in accordance with Clause 6.4.2 of the Scheme;
- (f) the existing and likely future amenity of the locality within which the development is to take place in particular and the area generally;
- (g) the nature and condition of roads servicing the site under consideration, and the need for car-parking, loading and vehicle turning space within the site to adequately serve anticipated development;
- (h) any approved statement of planning policy of the Commission;
- (i) any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;
- (j) any approved environmental protection policy under the Environmental Protection Act 1986;
- (k) the preservation of any object or place of heritage significance;
- (l) the recommendations of the Department of Environment water source protection planning for Kalbarri current at the time, whether draft or

finalised; and

- (m) any other matters relating to town planning, urban design, and public interest.

**6.5.3** Council may refuse to approve any Application for Planning Consent or may grant its approval unconditionally or subject to such conditions as it thinks fit.

**6.5.4** Council shall issue its decision in respect of an Application for Planning Consent in the form prescribed in Appendix 5 to the Scheme.

## **6.6 TERM OF PLANNING CONSENT**

**6.6.1** Where Council grants Planning Consent for the development of land:

- (a) the development approved is to be substantially commenced within two years, or such other period as specified in the approval, after the date of determination; and
- (b) the approval lapses if the development has not substantially commenced before the expiration of that period.

**6.6.2** A written request may be made to Council for an extension of the term of Planning Consent at any time prior to the expiry of the approval period in Clause 6.6.1 (a).

## **6.7 TEMPORARY PLANNING CONSENT**

Where Council grants Planning Consent, Council may impose conditions limiting the period for which approval is granted.

## **6.8 DEEMED REFUSAL**

**6.8.1** Where Council has not within 60 days of the receipt by it of an Application for Planning Consent, or within such further time as is agreed in writing between the applicant and Council, either conveyed its decision to the applicant or given notice of the application in accordance with Clause 6.4, the application shall be deemed to have been refused.

**6.8.2** Where Council has given notice of an Application for Planning Consent in accordance with Clause 6.4 and where Council has not within 90 days of receipt by it of the application, or within such further time as is agreed in writing between the applicant and Council, conveyed its decision to the applicant, the application shall be deemed to have been refused.

**6.8.3** Notwithstanding that an Application for Planning Consent may be deemed to have been refused under Clauses 6.8.1 or 6.8.2 Council may issue a decision in respect of the application at any time after the expiry of the period specified in those Clauses.

## **6.9 AMENDING OR REVOKING A PLANNING CONSENT**

Council may, on written application from the owner of land in respect of which Planning Consent has been granted, revoke or amend the Planning Consent, prior to the commencement of the use or development subject of the Planning Consent.

## **Part 7 PLACES OF HERITAGE VALUE**

### **7.1 PURPOSE AND INTENT**

The purpose and intent of the heritage provisions are:

- (a) to facilitate the conservation of places of heritage value;
- (b) to ensure that development occurs with due regard to heritage values.

### **7.2 HERITAGE LIST**

**7.2.1** Council shall establish and maintain a Heritage List of Places considered by Council to be of heritage significance and worthy of conservation.

**7.2.2** For the purposes of this Clause, the Heritage List of Places means the Shire of Northampton Municipal Heritage Inventory as it relates to the Scheme Area, as amended from time to time, prepared by Council pursuant to Section 45 of the Heritage of Western Australia Act 1990 (as amended), or such parts thereof described in the Heritage List.

**7.2.3** Council shall keep a copy of the Heritage List of Places with the Scheme documents for public inspection during normal office hours.

### **7.3 APPLICATIONS FOR PLANNING CONSENT**

**7.3.1** A person shall not commence or carry out any development at or on a place contained within the Heritage List of Places or Heritage Precinct without first having applied for and obtained the Planning Consent of Council.

**7.3.2** For the purposes of Clause 7.3.1 of the Scheme the term "development" shall have the meaning given to in Appendix 1 to the Scheme, but shall also include, in relation to any place entered on the Heritage List of Places or contained within a Heritage Precinct, any act or thing that is likely to significantly change the external character of the building, object, structure or place but without limiting the generality of the foregoing, development in this context includes the following:

- (a) alteration (whether internal or external), the demolition or modification of any building or structure;
- (b) works resulting in a change in the external appearance of a building or structure, including the treatment of the external surfaces thereof;
- (c) erection of any new building or structure;
- (d) removal of vegetation whether indigenous or exotic or the felling, lopping or topping of trees other than the normal maintenance of lawns or gardens or where the building or place is under threat of damage by such vegetation or classified noxious weed;

- (e) erection or display of any advertisement sign.

**7.3.3** Council may, in considering any Application for Planning Consent that may affect a Heritage Precinct or individual entry on the Heritage List of Places, consult with the Heritage Council of WA and any other relevant bodies, and take those views into account when determining the application.

**7.3.4** Notwithstanding any existing assessment, Council may require further heritage assessment to be carried out prior to the approval for any development proposed in a Heritage Precinct or individual entry listed on the Heritage List of Places if required within the Management Categories and Recommendations of the Municipal Heritage Inventory.

#### **7.4 FORMALITIES OF APPLICATION**

In addition to the requirements prescribed in Clause 6.3.2, Council may require an Application for Planning Consent, where the proposed development may affect a Heritage Precinct or individual entry on the Heritage List of Places, to include one or more of the following to assist Council in its determination of the application:

- (a) street elevations drawn to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application, and drawn as one continuous elevation;
- (b) in addition to a site plan, a plan of the proposed development site showing existing and proposed ground levels over the whole of the land the subject of the application, and the location, type and height of all existing structures and of all existing vegetation, and marking any existing structures and vegetation proposed to be removed; such plan shall be drawn to the same scale as the site plan;
- (c) a detailed schedule of all finishes, including materials and colours of the proposed development and, unless Council exempts the applicant from the requirement or any part of it, the finishes of the existing developments on the subject land and on each lot immediately adjoining the subject lot; and
- (d) any further information which Council decides that it considers relevant.

#### **7.5 DESIGNATION OF HERITAGE PRECINCTS**

**7.5.1** Council may designate an area of land to be a Heritage Precinct where, in the opinion of Council, special planning control is needed to conserve and enhance the heritage values and the character of the area.

**7.5.2** Council shall adopt for each Heritage Precinct a policy statement which shall comprise:

- (a) a map showing the boundaries of the precinct;
- (b) a list of places of heritage significance;
- (c) objectives and guidelines for the conservation of the precinct.

**7.5.3** Council shall keep a copy of the policy statement for any designated Heritage Precinct with the Scheme documents for public inspection during normal office hours.

**7.5.4** The procedure to be followed by Council in designating a Heritage Precinct shall be as follows:

- (a) Council shall notify in writing each owner of land affected by the proposal;
- (b) Council shall advertise the proposal by way of a notice in a newspaper circulating in the Scheme Area, by the erection of a sign in a prominent location in the area affected by the designation, and by such other methods as Council considers necessary to ensure widespread notice of the proposal, describing the area subject of the proposed designation and where the policy statement which applies to the precinct may be inspected;
- (c) Council shall invite submissions on the proposal within 28 days of the date specified in the notice referred immediately above;
- (d) Council shall carry out such other consultations as it thinks fit;
- (e) Council shall consider any submissions made and resolve to designate the Heritage Precinct with or without modifications or reject the proposal after consideration of submissions;
- (f) Council shall forward notice of its decision to the Heritage Council of WA and the Commission.

**7.5.5** Council may modify or may cancel a Heritage Precinct or any policy statement which relates to it by following the procedure set out in Clause 7.5.4 of the Scheme.

## **7.6 VARIATIONS TO SCHEME PROVISIONS**

**7.6.1** Where desirable to facilitate the conservation of a heritage place or to enhance or preserve heritage values, Council may vary any provision of the Scheme provided that, where in Council's opinion the variation of a provision is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for variation, Council shall:

- (a) consult the affected parties in accordance with Clause 6.4 of the Scheme;
- (b) consult with the Heritage Council of Western Australia;

- (c) have regard to any expressed views prior to making its decision to grant the variation.

**7.6.2** In granting variations under Clause 7.6.1, Council may enter into a Heritage Agreement under Part 4 of the Heritage of Western Australia Act 1990 with an owner who would benefit from the variation. The agreement may specify the owner's obligations and provide for memorials on relevant Certificates of Title.

## **Part 8 ADMINISTRATION**

### **8.1 POWERS OF THE SCHEME**

Council in implementing the Scheme has, in addition to all other powers vested in it, the following powers:

- (a) Council may enter into any agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matters pertaining to the Scheme.
- (b) Council may acquire any land or buildings within the district pursuant to the provisions of the Scheme or the Act. Council may deal with or dispose of any land which it has acquired pursuant to the provisions of the Scheme or the Act in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.
- (c) An officer of Council, authorised by Council for the purpose, may at all reasonable times and with such assistance as may be required, enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being observed.

### **8.2 OFFENCES**

**8.2.1** No person shall depart from or permit or suffer any departure from the requirements and provisions of the Scheme, nor shall any person use or suffer or permit the use of any land or building or undertake or suffer or permit the undertaking of any development within the Scheme Area:

- (a) otherwise than in accordance with the provisions of the Scheme;
- (b) unless all approvals required by the Scheme have been granted and issued;
- (c) unless all conditions imposed upon the granting and issue of any approval required by the Scheme have been and continue to be complied with;
- (d) unless all standards laid down and all requirements prescribed by the Scheme or determined by Council pursuant to the Scheme with respect to that building or that use of that land or building or that part have been and continue to be complied with.

**8.2.2** A person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to the penalties prescribed by the Act.

### **8.3 NOTICES**

**8.3.1** Twenty eight (28) days written notice is hereby prescribed as the notice to be



given pursuant to Section 10 of the Act.

- 8.3.2** Council may recover expenses under Section 10(2) of the Act in a court of competent jurisdiction.

## **8.4 COMPENSATION**

Except as otherwise provided, the time limit for the making of claims for compensation for injurious affection pursuant to Section 11 of the Act resultant from the making of, or the making of an Amendment to, the Scheme is six (6) months from the date of publication of the Scheme or the Scheme Amendment in the Government Gazette.

## **8.5 APPEALS**

An applicant aggrieved by a decision of Council in respect of the exercise of a discretionary power under the Scheme may appeal in accordance with Part V of the Act and the rules and regulations made pursuant to the Act.

## **8.6 ENFORCEMENT**

Failure to comply with the conditions imposed by Council on the granting of Planning Consent or failure to carry out development in strict accordance with the plan approved by Council in respect of a particular proposal shall constitute a contravention of the Scheme and Council may:

- (a) by written notice served on the owner and/or occupier of the land, require the development to be carried out in accordance with the conditions imposed on any approval granted and/or in strict accordance with the plans approved within the period specified in the notice failing which Council may enter the land and carry out the work itself and recover any expenses in a Court of competent jurisdiction;
- (b) prosecute the owner or occupier of the land as the case may be pursuant to Section 10 of the Act;
- (c) require the removal of the development carried out as set out in Section 10 of the Act.

## **8.7 DELEGATION**

- 8.7.1** Council may, either generally or in a particular case or cases, by resolution passed by an absolute majority of Council, delegate to the following eligible persons the authority to deal with an Application for Planning Consent made under this Scheme:

- (a) that officer of Council, appointed to the position of Chief Executive Officer or Principal Planner for the purpose of the Local Government Act with overall responsibility for the planning functions of Council or appointed by Council to supervise the development control functions of Council or those persons who from time to time occupy the

positions.

- 8.7.2** Any delegation made under Clause 8.7.1 shall have effect for the period of 12 months following the resolution unless the Council stipulates a lesser or greater period in the resolution.
- 8.7.3** A delegation of authority pursuant to the provisions of this Clause has effect and may be exercised according to its tenor, but is revocable at the will of the Council and does not preclude the Council from exercising the power.
- 8.7.4** The performance of the function by a delegate under Clause 8.7.1 shall be deemed to be the performance of the function by Council in all circumstances where Council is able to delegate its powers.
- 8.7.5** An officer exercising the power delegated pursuant to the provisions of this Clause shall comply with the provisions of the Scheme governing the exercising of the power by Council, insofar as such provisions are reasonably applicable.
- 8.7.6** A person who is or has been a delegate of Council is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any powers conferred, or the carrying out of any duty imposed on Council by this Scheme.

## **8.8 AMENDMENTS TO THE SCHEME**

- 8.8.1** Council shall keep the Scheme under constant review and where appropriate carry out investigations and study with a view to maintaining the Scheme as an up-to-date and efficient means for pursuing community objectives regarding development and land use.
- 8.8.2** Council may, from time to time, initiate an Amendment to the Scheme in accordance with the Act and Regulations and shall give consideration to any application to have the Scheme amended.
- 8.8.3** In the case of a proposed Amendment to the zoning of land other than requested by the owner, Council shall, before initiating any Amendment to the Scheme, invite comment from the owner of the land concerned.
- 8.8.4** Council shall take into consideration any comments or submissions received in respect of a proposed Amendment to the Scheme and shall only proceed with the Amendment where it is satisfied the Amendment will be consistent with the objectives of the Scheme and would not be contrary to the public interest.

## **8.9 POWER TO MAKE PLANNING POLICIES**

- 8.9.1** In order to achieve the objectives of the Scheme, Council may make Town Planning Scheme Policies relating to parts or all of the Scheme Area and relating to one or more of the aspects of the control of development.

### **8.9.2 Procedure of Policy Making**

A Town Planning Scheme Policy shall become operative only after the following procedures have been completed:

- (a) Council having prepared and resolved to adopt a Draft Town Planning Scheme Policy, shall advertise a summary of the Draft Policy once a week for 2 consecutive weeks in a newspaper circulating in the Scheme Area giving details of the Draft Policy and where it may be inspected and stating that written submissions will be received by Council for a period of 21 days from the date of the advertisement;
- (b) policies which Council considers may be inconsistent with other provisions of the Scheme or with State and regional planning policies are to be submitted to the Commission for consideration and advice;
- (c) Council shall review its Draft Town Planning Scheme Policy in the light of any representations made and shall then decide to finally adopt the Draft Policy with or without amendments, or not proceed with the Draft Policy;
- (d) following final adoption of a Town Planning Scheme Policy, details thereof shall be advertised publicly and a copy kept with the Scheme documents for inspection during normal office hours.

### **8.9.3 Policy Amendment**

A Town Planning Scheme Policy may be altered or rescinded by:

- (a) preparation and final adoption of a new Policy pursuant to this Clause, specifically worded to supersede an existing Policy;
- (b) publication of a formal notice of rescission by Council in a newspaper circulating in the Scheme Area.

### **8.9.4 The Scheme shall Prevail**

A Town Planning Scheme Policy shall not bind Council in the respect of any Application for Planning Consent but Council shall take into account the provisions of the Policy and Objectives which the Policy was designed to achieve before making its decision.

### **8.9.5 Policy Statements shall be Consistent with the Scheme**

The Policy Statements prepared pursuant to this Part shall be consistent with the intent of the Scheme and where any inconsistency arises the Scheme shall prevail.